

ORIGINAL

SEALED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

CLERK US DISTRICT COURT
NORTHERN DIST. OF TX
FILED

2013 AUG -2 AM 9:51

DEPUTY CLERK

T. Allen

5663

UNITED STATES OF AMERICA
EX REL. RANSOME ETINDI, M.D.

Plaintiff,

VS.

DALLAS MEDICAL CENTER, LLC

Defendant.

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3-13CV3010-B

CIVIL ACTION NO.

COMPLAINT FOR VIOLATION OF FEDERAL FALSE CLAIMS ACT, 31 U.S.C. §§
3729 et seq. FILED IN CAMERA AND UNDER SEAL PURSUANT TO 31 U.S.C. §
3730(b)(2); JURY DEMAND

I. INTRODUCTION

1. This is an action to recover damages and civil penalties on behalf of the United States of America arising from false statements and claims made, presented, and caused to be presented by Defendant DALLAS MEDICAL CENTER, LLC ("Defendant" or "Dallas Medical Center") and/or its agents, employees, and co-conspirators in violation of the Federal False Claims Act, 31 U.S.C. §§ 3729 et seq.

II. THE PARTIES

2. Plaintiff, UNITED STATES OF AMERICA *EX REL.* RANSOME ETINDI, M.D. ("Etindi," "Relator," or "Plaintiff") is an individual and citizen of the United States of America residing in Dallas, Texas. Etindi is the original source of information, as alleged below. Etindi has direct and independent knowledge of all publicly disclosed information that materially adds to the allegations and transactions described herein. Etindi has voluntarily provided this information to the Government before and/or contemporaneous with filing the present Complaint.

3. Dallas Medical Center is a limited liability company organized and existing under the laws of the State of Texas, and with a principal place of business in Dallas, Texas. Dallas Medical Center is a full service acute care hospital.

III. JURISDICTION AND VENUE

4. Plaintiff brings this action on behalf of the United States of America under the provisions of the Federal False Claims Act: 31 U.S.C. §§ 3729 et seq. As such, this Court has original subject matter jurisdiction over this matter under 28 U.S.C. §§ 1331, 1345.

5. Venue is appropriate in this judicial district under 31 U.S.C. § 3732(a) because Dallas Medical Center resides in and transacts business in this judicial district, where it also has a principal place of business; and some of the acts alleged below (as violations of 31 U.S.C. §§ 3729(a)(1)(A)-(B)) occurred in this judicial district.

IV. BACKGROUND ALLEGATIONS

6. Etindi is a medical doctor, specializing in internal medicine, licensed to practice medicine in Texas since 2001.

7. Dallas Medical Center routinely admits Medicare patients, sometimes for long-term stays.

8. From April 2011 until May 2013, Etindi provided in-home medical care for patients through U.S. Physician Visits, a company in Dallas, Texas that provided home healthcare services, and had an ongoing arrangement to admit patients to Dallas Medical Center.

9. When Medicare patients are hospitalized for long-term stays at Dallas Medical Center, Medicare reimburses Dallas Medical Center for a maximum number of days.

10. Etindi provided in-home medical care for at least two Medicare patients who were subsequently admitted to Dallas Medical Center. When Etindi provided in-home medical care for these two patients after they were released from Dallas Medical Center, these patients complained that their stays at Dallas Medical Center were too long, and that they did not get the treatment they were admitted for. Etindi confirmed that these patients' stays were beyond the length of stay indicated by their diagnosis related group, and that they did not get the treatment

they were admitted for.

11. Etindi saw the first of the two Medicare patients ("M.D.") at home sometime in or around late 2011 for asthma-related symptoms. Then, in or around late 2011 or early 2012, M.D. was admitted to Dallas Medical Center for bariatric surgery. Patients spend an average of three to five days in the hospital following bariatric surgery, and sometimes longer if complications develop. M.D. remained at Dallas Medical Center for more than thirty days.

12. Etindi saw the second of the two Medicare patients ("D.R.") at home sometime in early 2012 for diabetes treatment. D.R. was expecting gallbladder surgery. D.R. was admitted to Dallas Medical Center in or around March or April 2012. D.R.'s diagnosis only required two or three days of hospitalization, but D.R. remained at Dallas Medical Center for more than thirty days. Moreover, D.R.'s gallbladder was not removed.

13. Dallas Medical Center submitted claims for payment to Medicare by extending the stays of these (and others, upon information and belief) Medicare patients without medical necessity. In so doing, Dallas Medical Center intended to claim the maximum amount allowable under Medicare rules and regulations.

14. Had Medicare known that Dallas Medical Center was extending the stays of Medicare patients without medical necessity, and submitting claims for payment, Medicare would not have paid these claims. To Etindi's knowledge, Dallas Medical Center submitted such false claims to the Medicare program since at least April 2011.

V. FIRST CAUSE OF ACTION

FOR VIOLATIONS OF THE FALSE CLAIMS ACT, 31 U.S.C. §§ 3729(a)(1)(A)-(B), AGAINST DEFENDANT DALLAS MEDICAL CENTER

15. Plaintiff re-alleges, as if fully set forth below, all of the allegations contained in paragraphs 1 through 14, inclusive, of this Complaint.

16. Dallas Medical Center made requests and/or demands for money to an officer, employee, and/or agent of the United States.

17. Dallas Medical Center's requests and/or demands for money to an officer,

employee, and/or agent of the United States were made with either: Actual knowledge that the requests and/or demands were submitted for extending patient stays without medical necessity to receive additional reimbursement from Medicare; deliberate ignorance of the truth or falsity of whether the requests and/or demands were submitted for extending patient stays without medical necessity to receive additional reimbursement from Medicare; and/or reckless disregard of the truth or falsity of whether the requests and/or demands were submitted for extending patient stays without medical necessity to receive additional reimbursement from Medicare.

18. Through the acts described above, Dallas Medical Center knowingly presented and/or caused to be presented false or fraudulent claims for payment or approval.

19. Through the acts described above, Dallas Medical Center knowingly made, used, and/or caused to be made or used, false records and/or statements material to false or fraudulent claims.

20. The United States, unaware of the falsity of the claims, records, and/or statements made or submitted by Dallas Medical Center, paid and continues to pay Dallas Medical Center for claims that would not be paid if the true facts were known.

21. As a proximate cause of Dallas Medical Center's false claims, records, statements, and/or omissions, the United States of America has been damaged in an amount exceeding the jurisdictional limit, and to be proven at trial.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests damages as follows:

1. That Defendant cease and desist from violating the False Claims Act;
2. That the Court enter judgment against Defendant in an amount equal to three times the amount of damages the United States has sustained as a result of Defendant's actions, as well as a civil penalty of \$10,000.00 for each violation of the False Claims Act;
3. That Relator be awarded the maximum amount of the recovery allowed under 31 U.S.C. § 3730(d) of the False Claims Act;
4. That the Court award all costs and expenses of this action, including attorneys' fees, with pre- and post-judgment interest; and
5. For all other relief that the Court deems just and proper.

August 1, 2013

Respectfully submitted,

KHOURI LAW FIRM



Michael J. Khouri
Texas Bar No. 24073809

1701 North Market Street, Suite 318, L.B. 45
Dallas, Texas 75202
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Fax: (469) 364-8051
Email: mkhourilaw@khourilaw.com

Attorney for Plaintiff/Relator
RANSOME ETINDI, M.D.

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Relator demands a trial by jury in this action.

August 1, 2013

Respectfully submitted,

KHOURI LAW FIRM



Michael J. Khouri

Texas Bar No. 24073809

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Dallas, Texas 75202

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Fax: (469) 364-8051

Email: mkhouri@khourilaw.com

Attorney for Plaintiff/Relator

RANSOME ETINDI, M.D.

CERTIFICATE OF SERVICE

On August 1, 2013, I certify that I served the foregoing document, as well as a document entitled "WRITTEN DISCLOSURE OF SUBSTANTIALLY ALL MATERIAL EVIDENCE AND INFORMATION PURSUANT TO 31 U.S.C. § 3730(b)(2)" by placing a true copy thereof in a sealed envelope, with prepaid postage and return receipt requested, addressed to:

Civil Process Clerk

United States Department of Justice, Office of the Attorney General

950 Pennsylvania Avenue, NW

Washington, DC 20530

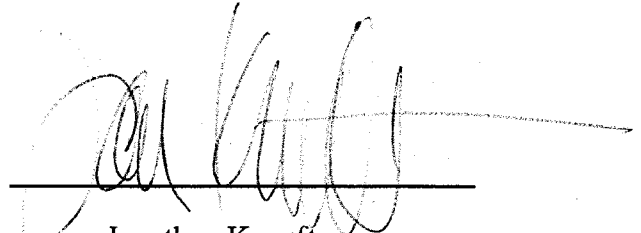
Civil Process Clerk

Office of the United States Attorney

Northern District of Texas, Dallas Office

1100 Commerce Street, Third Floor

Dallas, TX 75242



Jonathan Knauff

JS 44 (Rev. 09/11)

CIVIL COVER SHEET

SEALED

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

United States of America ex rel. Ransome Etindi, M.D.

DEFENDANTS

Dallas Medical Center, LLC

(b) County of Residence of First Listed Plaintiff Dallas, TX
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Dallas, TX
(IN U.S. PLAINTIFF CASES ONLY)

IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Michael J. Khouri: Khouri Law Firm, 1701 N. Market St., Suite 318, L.B.
45, Dallas, TX 75202; (469) 364-8063

Attorneys (If Known)

Unknown at this stage.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input checked="" type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
			IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

31 U.S.C. sections 3729 et seq.

Brief description of cause:

Violation of False Claims Act

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ seventy million dollars (\$100,000,000.00)

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

PENDING OR CLOSED:

(See instructions):

JUDGE

DOCKET NUMBER

DATE

07/31/2013

SIGNATURE OF ATTORNEY OF RECORD

Michael J. Khouri

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE